



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-3000

OFFICE OF LEAD HAZARD CONTROL
AND HEALTHY HOMES

Policy Guidance Number: 2014-01		Date: November 5, 2014
Subject:	Eligibility of Units for Assistance	
Status:	Current	
Applicability:	All OLHCHH Lead-based Paint Hazard Control and Lead Hazard Reduction Demonstration grantees	
Related Guidance:	<ul style="list-style-type: none">• Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X); Section 1011(a)¹• Policy Guidance 2002-01• Policy Guidance 2012-04• Policy Guidance 2013-05• Policy Guidance 2013-07	
Comments:	Policy Guidance 2012-04 is rescinded; this Guidance is effective the date above	

The Office of Lead Hazard Control and Healthy Homes (OLHCHH) is issuing this policy guidance to clarify eligibility requirements for recipients of federal funds issued under OLHCHH lead hazard control grant programs (i.e., the Lead-based Paint Hazard Control and Lead Hazard Reduction Demonstration grant programs), and authorized by the Residential Lead-Based Paint Hazard Reduction Act (Title X), as amended, which establishes the criteria for which assistance can be provided for housing containing lead-based paint hazards.

Section 1011(a) of Title X reads:

- (1) for grants made to assist rental housing, at least 50 percent of the units must be occupied by or made available to families with incomes at or below 50 percent of the area median income level and the remaining units shall be occupied or made available to families with incomes at or below 80 percent of the area median income level, and in all cases the landlord shall give priority in renting units assisted under this section, for not less than 3 years following the completion of lead abatement activities, to families with a child under the age of six years, except that buildings with five or more units may have 20 percent of the units occupied by families with incomes above 80 percent of area median income level*
- (2) for grants made to assist housing owned by owner-occupants, all units assisted with grants under this section shall be the principal residence of families with income at or below 80 percent of the area median income level, and not less than 90 percent of the units assisted with grants under this section shall be occupied by a child under the age of six years or shall be units where a child under the age of six years spends a significant amount of time visiting*

¹ As amended by Section 217 of Omnibus Consolidated Rescissions and Appropriations Act of 1996, Public Law 104-134

Summary Table of Section 1011

Occupant Type	Income Level²	Child Occupant <6 years old
Renter	<ol style="list-style-type: none"> 1. At least 50% units must be less than 50% AMI, and 2. Remaining units (<50%) must be less than 80% AMI 	<ol style="list-style-type: none"> 1. Not required at time of assistance 2. Property owner must give priority to families with child under 6 years old for at least 3 years.
Multifamily Renter (≥ 5 units in same property)	<ol style="list-style-type: none"> 1. 20% of total number of units in same building may exceed 80% AMI 2. Remaining units must meet renter income requirements above 	<ol style="list-style-type: none"> 1. Not required at time of assistance 2. Property owner must give priority to families with child under 6 years old for at least 3 years.
Owner (primary residence)	100% of owner-occupied units must be occupied by families with less than 80% AMI	<ol style="list-style-type: none"> 1. At least 90% of total number of owner-occupied units assisted must have: <ul style="list-style-type: none"> • A child under 6 years old in residence, or • A child under 6 years old spends a “significant amount of time”³ or • A pregnant woman 2. Less than 10% of total number of units assisted may be occupied by families without a child

Prioritization of Units

The goal of the lead hazard control grant program is to prevent childhood lead poisoning. Each grantee must develop work plans and policies and procedures that are consistent with this goal. In addition, your efforts must comply with the Notice of Funding Availability under which the award was made, and other grant requirements when committing to address lead hazards in housing. Your work plan must contain a clear prioritization strategy and outreach plan (i.e., how you will reach children with lead poisoning, children under 6 at risk, units without children, etc.). Collaboration with local health agencies to obtain EBL lists is essential. There are limited funds for this effort, so grantees must be judicious and responsible when selecting units for participation in their programs.

Use of Funds in Multifamily (≥ 5 Units) Housing

In some cases, landlords and/or property owners should be expected to contribute significantly towards the cost to remediate hazards in their properties, especially those owning large housing complexes, thus ensuring that they demonstrate their responsibility to provide safe and healthy housing for their tenants. The level of contribution should be determined on a case-by-case basis at the discretion of the grantee. A child is not required to be in occupation within a multifamily

² See Policy Guidance 2013-07, Revised Income Verification Guidance, for instructions on determining income.

³ A “significant amount of time visiting” is defined as three hours a day on two separate days a week and a total of 60 hours per year.

unit in order to provide lead hazard control assistance, but the owner/landlord must agree to give priority to families with children under six for not less than three years following the completion of work. You may require more stringent terms in your agreements with landlords, but not less.

Vacant Rental Units

The OLVCHH permits lead hazard control work in vacant units provided the landlord owner/landlord must agree to give priority to families with children under six for not less than three years following the completion of work. While remediating lead-based paint hazards in vacant units is permissible, grantees must ensure that they are not forgoing units where children are currently residing in preference of vacant units.

Renter Occupied Units without Children

The OLVCHH recognizes that the intention of Title X is to implement primary prevention strategies that address homes where at-risk children are likely to reside, with a focus on homes where children under six years of age currently reside. Therefore, per Section 1011(a)(1), the OLVCHH permits grantees to assist income-eligible rental units where children under six are not currently in residence, provided that the landlord gives priority in renting units assisted, for not less than three years from the date of the completion (i.e., clearance of lead hazards) of lead hazard abatement activities, to families with a child under the age of six years. The OLVCHH considers a pregnant woman as a qualifying “child occupant,” although the presence of a qualifying child at the time of assistance is not required in rental housing.

Giving Priority to Families with Children Under Six

Title X does not make it clear how “giving priority” is achieved. Furthermore, the Fair Housing Act does not permit property owners to discriminate based on race, color, national origin, religion, sex, familial status or handicap. Nevertheless, under Title X funding provided to recipients requires that the property owner “give priority in renting units assisted... for not less than 3 years following the completion of lead abatement activities.” This requirement applies to all rental housing, whether occupied or not at the time of assistance, and for not less than three years following the date of assistance; it does not apply to owner-occupied housing. The OLVCHH, therefore, advises grantees to establish policies that ensure assisted units are prioritized for families with children under six years of age, such as, but not limited to:

- Requiring compliance in the terms of your assistance agreement with owners;
- Registering assisted units in a publicly accessible lead-safe housing registry; and/or
- Following up with the owner(s) at least annually and document in the unit file that the owner has attempted to comply.

Your GTR will review your policies and procedures with you and provide recommendations, as appropriate, to assist in compliance with this requirement.

Owner-Occupied Units

Section 1011(a)(2) of Title X requires that 90% of all owner-occupied housing assisted with lead grant funds must have a child under the age of six years or spend a significant amount of time at the time of assistance. The OLVCHH considers a pregnant woman as a qualifying “child occupant.” All owner-occupied units must have income at or below 80% AMI. There is no period of availability requirement (i.e., “giving priority to families with children under six”) for owner-occupied units, as there is in rental housing.

Unit Cost

For assisting units where the estimated cost of lead hazard control using lead grant funds is greater than \$20,000, or multi-family properties where more than 10 units are being assisted, you must submit a request through the Healthy Homes Grant Management System (HHGMS) that includes a detailed description of the work and an estimate of costs, including the type and age of the property and ownership for multifamily projects. The request will be reviewed by your GTR and, if necessary, additional documentation may be requested for review prior to approval. Please do not commit funding for these projects until you receive approval from your GTR.

Please consult with your assigned Government Technical Representative if you have any further questions concerning this Policy Guidance.